

UNITED STATES District Court For the middle District of
Alabama of Eastern Division: Notice of Appeal To The
Appropriate U.S. Court of Appeals: 28 U.S.C. § 2253(A) (2000).

Timothy Lee Sunday, Petitioner
-against-
Lee County Circuit Court
Respondent, Et Al

DEBRA P. HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

Notice of Appeal [COA]
Indictment No. CC-98-1095
Application For A Certificate
of Appealability

Please take notice that Petitioner Timothy Lee
Sunday, hereby Appeals Pursuant to Final Judg-
ment: Order: Case: 3:07-CV-00723-MEF-WC; DATE
Filed: 9-27-07 In The United States District Court
For the Middle District of Alabama of Eastern Div-
ision within 30 days of the District Court Judgmenta
28 U.S.C. § 2107 (2000). This Appeal is taken from said
Judgment and from each and every Part thereof and
every intermediate order made therein.

Petitioner requests Permission to Appeal by obtaining
a "Certificate of Appealability" from a Federal district
or Circuit Court Judge. 28 U.S.C. § 2253 (c)(1) (2000).

Dated: 10-14-07

Timothy Lee Sunday
#213453 Pro Se Incarcerated

Certificate of service 10-14-07 Pursuant to Mail box rule deposited
delivered to Prison officials for mailing. Houston v. Lack 487
U.S. 266, 271-272 (1988): 28 U.S.C. § 1746

LEGAL USE ONLY

CASE 3:07-cv-00723-MEF-WC filed 8/14/ 2007

TIMOTHY LEE SUNDAY, PETITIONER,

AIS# 213453,

V.

LEE COUNTY CIRCUIT COURT, et al.,

CASE NO.3:07- Cv-723-MEF [WO]

QUESTIONS PRESENTED

ISSUE ARGUMENT 1.(a).

WHETHER PETITIONERS APPELLANT COUNSEL MR. T.R. MCINTYRE'S
FAILURE TO RAISE AND PROSECUTE ISSUES OF PROSECUTORIAL
MISCONDUCT IN STATE APPEAL REQUIRES EVIDENTIARY HEARING.
COULD APPELLATE COUNSEL ATTORNEY T.R. MCINTYRE BE
INEFFECTIVE ASSISTANCE OF COUNSEL ? [ANSWER BELOW :

YES

SEE

APPENDIX: 1. (A) :

WHETHER THAT DID NOT HAPPEN IN THIS COURT ROOM. THAT WAS
NOT THE EVIDENCE. YES . SEE APPENDIX :

ISSUE NO.I(ii)(A):

WOULD APPELLATE COUNSEL T.R. MCINTYRE'S FAILURE TO PERFECT
APPEAL BE PREJUDICIAL UNDER THE STRICKLAND STANDARD AND
THEREFORE CONSTITUTE INEFFECTIVE ASSISTANCE OF COUNSEL .

YES . SEE APPENDIX : 1. (ii)(A) .

CASE 3:07-cv-00723-MEF-WC FILED 8/14/2007

ISSUE I (iii) A :

WHETHER IN THE CASE AT BAR, APPELLANT COUNSEL MR. MCINTYRES FAILURE TO PERFECT APPEAL WHEN DEFENDANT " MR. SUNDAY " REQUESTED MR. MCINTYRE TO FILE INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL, PROSECUTOR GAIL MEEK KNOWINGLY USED PERJURED TESTIMONY, IS A PERSE VIOLATION OF THE SIXTH AMENDMENT AND ~~I~~CONSTITUTES INEFFECTIVE ASSISTANCE OF COUNSEL. YES. SEE APPENDIX I (iii) A :

ISSUE NO. I(iv) B : LEGAL CLAIM NO. I GROUND ONE :

WHETHER PETITIONERS CONVICTION WAS OBTAINED AS THE RESULT OF INEFFECTIVE ASSISTANE OF COUNSEL AT TRIAL. THIS VIOLATED PETITIONERS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL , AS GUARANTEED BY THE UNITED STATES CONSTITUTION, AND THE FIFTH AMENDMENTS THERETO . YES. SEE APPENDIX : I (iv) B

LEGAL CLAIM NO. I(i) :

WHETHER COUNSEL MR. JEFF TICKAL WAS INEFFECTIVE FOR FAILURE TO OBJECT AND PRESERVE FOR DIRECT REVIEW THE ASSISTANT DISTRICT ATTORNEY MS. GAIL MEEKS KNOWING USE OF PERJURED TESTIMONY FROM MS. CYNTHIA THROWER IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION. YES, . SEE RULE 32 PETITION FILED BY THE COURT JULY 24, 2001. pg.2. SEE APPENDIX : Legal Claim No. I (i)

LEGAL CLAIM NO. I(ii)

WHETHER TRIAL COUNSEL MR. JEFF TICKAL WAS INEFFECTIVE FOR
FAILURE TO ADEQUATELY CROSS EXAMINE MS. CYNTHIA THROWER.
PG. 25 OF RULE 32 PETITION FILED JULY 24, 2001 PAGE 25.
YES SEE APPENDIX

: Legal Claim No. I (ii).

LEGAL CLAIM NO. I(iii)

WHETHER COUNSEL WAS INEFFECTIVE FOR FAILURE TO OBJECT TO
THE PROSECUTIONS COMMENTS DURING CLOSING ARGUMENT IN
VIOLATION OF THE PETITIONERS SIXTH AND FOURTEENTH
AMENDMENTS TO THE UNITED STATES CONSTITUTION. SEE RULE 32
filed [Id]. SEE APPENDIX #:

Legal Claim No. I (iii).

ISSUE I(i) ;APPENDIX NO: Issue I (i) :

WHETHER THE PETITIONER , AS ONE OF ACTUAL INNOCENCE MAY BRING A
MISCARRIAGE OF JUSTICE EXCEPTION TO CAUSE FOR PROCEDURAL DEFAULT .

LEGAL CLAIM II ;

WHETHER IT WAS AN ABUSE OF THE TRIAL COURTS DISCRETION TO DENY THE
RULE 32 POST CONVICTION CLAIM THAT TRIAL COUNSEL WAS INEFFECTIVE FOR
FAILING TO OBJECT TO THE TRIAL COURTS INSTRUCTION TO THE JURY ON
REASONABLE DOUBT. WHETHER TRIAL COURT AND APPELLATE COURTS FOR THE
STATE OF ALABAMA ERRED IN THERE HOLDINGS. SEE APPENDIX ;

Legal Claim II ,

LEGAL CLAIM NO. I(iv) : WHETHER TRIAL COURT COMMIT REVERSIBLE ERROR
WHEN THE COURT ADMITTED CYNTHIA THROWER'S IN-COURT IDENTIFICATION OF
THE DEFENDANT. SEE APPENDIX : Legal Claim No. I (iv) .

LEGAL CLAIM II : WHETHER THE TRIAL COURT COMMIT REVERSIBLE ERROR WHEN THE COURT ADMITTED CYNTHIA THROWER'S IN COURT IDENTIFICATION OF THE DEFENDANT AS EVIDENCE: SEE APPENDIX NO: Legal claim II .

LEGAL CLAIM III: THE TRIAL COURT SHOULD HAVE GRANTED THE DEFENDANTS MOTION FOR A JUDGMENT OF ACQUITTAL BECAUSE OF THE LACK OF LEGAL EVIDENCE TO CARRY THE BURDEN OF PROOF NECESSARY TO PROVE THE ELEMENT OF FORCIBLE COMPULSION. SEE APPENDIX : Legal claim III .

LEGAL CLAIM IV : WHETHER IT WAS AN ABUSE OF THE TRIAL COURTS DISCRETION TO DENY THE RULE 32

POST CONVICTION CLAIM THAT ALLELLANT WAS ILLEGALLY SENTENCED UNDER THE HABITUAL FELONY OFFENDER ACT : SEE APPENDIX : Legal claim IV .

LEGAL CLAIM V : COULD OKLAHOMA CONVICTIONS VOID ON THEIR FACE FOR FAILURE TO BE CONVICTIONS THAT REST UPON A VALID GRAND JURY INDICTMENT BE VOID CONVICTION USED FOR ENHANCEMENT PURPOSES UNDER ALABAMA'S HABITUAL FELONY OFFENDER STATUTE. SEE APPENDIX NO. Legal claim V .

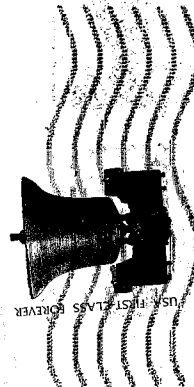
LEGAL CLAIM VI: WHETHER IT WAS AN ABUSE OF THE TRIAL COURTS DISCRETION TO DENY THE RULE 32 POST CONVICTION CLAIM THAT APPELLATE COUNSEL WAS INEFFECTIVE FOR HIS FAILURE TO PROSECUTE ON DIRECT APPEAL REVIEW THE ILLEGAL SEARCH AND SEIZURE OF THE EVIDENCE FROM TINOTHY LEE SUNDAY . SEE APPENDIX : Legal claim VI .

Timothy Lee Sunday #13443
 Eastern Correctional Facility D1-45A
 200 Wallace Drive
 Elie AL 36019

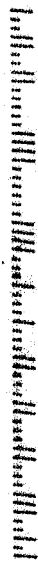
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